

FILED  
UNITED STATES DISTRICT COURT CLERKS OFFICE  
FOR THE DISTRICT OF MASSACHUSETTS

CV 10227 W 2005 FEB -4 A 9:33

SUZANNE CARLSON

U.S. DISTRICT COURT  
DISTRICT OF MASS.

Plaintiff

Civil Action No.

v.

UNITED STATES OF AMERICA

Defendant

MAGISTRATE JUDGE SPC

COMPLAINT

RECEIPT # 61842  
AMOUNT \$150  
SUMMONS ISSUED YES  
LOCAL RULE 4.1  
WAIVER FORM  
MCF ISSUED  
BY DPTY CLK FORM  
DATE 2/4/05

Now comes the plaintiff, Suzanne Carlson, and complains of the Defendant, United States of America, as follows.

JURISDICTION

This cause of action is based upon 26 USCA Sec. 6320(c) and 6330(d)(1) which provide for actions by taxpayers for the appeal of determinations by the Internal Revenue that threatened or effectuated actions to collect unpaid tax is appropriate.

PARTIES

1. The Plaintiff, Suzanne Carlson ("Ms. Carlson"), is an individual who resides at 10 Philips Farm Road, Marshfield, MA 02050.
2. The Defendant is the United States of America.

**FACTS**

3. Ms. Carlson timely filed with the Internal Revenue Service a Request for a Collection Due Process Hearing in response to the filing of a Notice of Federal Tax Lien and a Final Notice, Notice of Intent to Levy.

4. Internal Revenue Code Section 6330 (b) grants taxpayer's a hearing (the "Hearing") before an impartial officer.

5. Internal Revenue Code Section 6330 (c) provides that at the hearing a person may raise any relevant issue relating to unpaid tax or the proposed levy including an "offer-in-compromise" ("Offer").

6. Internal Revenue Code Section 6330(c)(3)(C) provides that a basis for a determination is whether any proposed collection action balances the need for the efficient collection of taxes with the legitimate concern of the person that any collection action be no more intrusive than necessary.

7. On October 14, 2004 Ms. Carlson and her counsel attended a face-to-face conference with Settlement Officers Lisa Boudreau and Paul Reska of the Internal Revenue Service.

8. At the hearing it was discussed that Ms. Carlson did not qualify to file an Offer in Compromise as she had not filed required tax returns.

9. At the hearing Ms. Carlson requested the opportunity to file the unfiled returns. A date of November 30, 2004 was

established by the defendant for their filing.

10. On November 23, 2004, Ms. Carlson's counsel wrote the Defendant to request an extension of time to provide the tax returns. The reasons for this request included significant health issues with Ms. Carlson's longtime companion and that her son had equally serious issues. The demands on Ms. Carlson's time from her companion's and her son's difficulties made it impossible for her to complete the accounting records which were a prerequisite to the filing of the returns. (Please see Exhibit 1.)

11. On or about November 30, 2004, Ms. Boudreau wrote a letter denying Ms. Carlson's request for an extension of time. (Please see Exhibit 2)

12. On January 5, 2005 the Internal Revenue Service issued a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 (the "Determination"). (Copy attached hereto as Exhibit 3.)

COUNT I

13. The Plaintiff repeats and realleges paragraphs 1 through 12 of her complaint as fully set forth herein.

14. Ms. Boudreau's decision to deny Ms. Carlson's request for additional time was predicated on her desire to promptly close the hearing.

15. Ms. Boudreau's decision establishes that she was concerned not with a full, complete and impartial hearing but

with the minimization of the time that the hearing would be recorded in the records of the Defendant.

16. The hearing was not properly held due to the bias of the Settlement Officer.

Wherefore, Ms. Carlson demands:

1. That this matter be remanded to the Service for full consideration.
2. That the Court enter judgment against the Service together with interest and costs.

**COUNT II**

17. The Plaintiff repeats and realleges paragraphs 1 through 16 of his complaint as fully set forth herein.

18. The defendant's failure to hold a full, impartial and complete hearing was violative of the rights granted to Ms. Carlson by the Internal Revenue Code and the Fifth Amendment to the United States Constitution.

Wherefore, Ms. Carlson demands:

1. That this matter be remanded to the Service for full consideration.
2. That the Court enter judgment against the Service together with interest and costs.

**COUNT III**  
(Attorney's Fees)

19. The Plaintiff repeats and realleges paragraphs 1 through 18 of her complaint as fully set forth herein.

20. The Plaintiff has incurred and continues to incur attorney's fees in this action. She is entitled to an award of attorney's fees pursuant to the Equal Access to Justice Act, 28 USC Sec. 2412 (b) and IRC Sec. 7430.

WHEREFORE, for the foregoing reasons, the Plaintiff prays this honorable Court for:

- a. Judgment against the Defendant, United States of America; and,
- b. Plaintiff's attorney's fees and costs in this action to be paid by the Defendant pursuant to 28 USC Sec. 2412(b) and IRC Sec. 7430; and,
- c. Any and all other remedies that this honorable court deems appropriate.

**Trial by Jury**

The plaintiff requests a trial by jury on those issues so triable.

Suzanne Carlson  
by her Attorney  
c

Dated: February 3, 2005

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Timothy J. Burke  
Burke & Associates  
400 Washington Street  
Braintree, MA 02184  
(781) 380-0770

**BURKE & ASSOCIATES**  
ATTORNEYS AT LAW

400 Washington Street, Suite 303, Braintree, MA 02184  
Telephone (781) 380-0770 Facsimile (781) 848-0330  
[www.burkelaw.us](http://www.burkelaw.us)

November 23, 2004

Via Facsimile and Regular Mail

Lisa Boudreau  
Internal Revenue Service  
10 Causeway Street  
Room 401  
Boston, MA 02222-1061

Re: Suzanne Carlson

Dear Ms. Boudreau,

I am writing regarding the status of the above referenced taxpayer's efforts to complete the accounting for her personal returns and her corporate returns.

Ms. Carlson reports that she has made substantial progress in completing her accounting records. The two largest bank accounts have been reconciled as of this date.

Unfortunately, she has been unable to dedicate sufficient time to complete her accounting records by November 30, 2004 due to the significant health issues of her longstanding friend. These issues include his losing his sight in one eye, diabetes and surgery on one of his feet. This series of medical issues has required Ms. Carlson to drive her friend to many medical appointments and to expend considerable time attending to his needs. Additionally, Ms. Carlson's son has been involved in some mischief which has required the expenditure of her time.

For these reasons, the taxpayer asks for an extension of thirty days to respond to your request for information.

Kindly contact me with any questions that you may have.

Very truly yours,

Timothy Burke

cc. Client

BURKE & ASSOCIATES

ATTORNEYS AT LAW  
400 WASHINGTON STREET  
BRAINTREE, MA 02184  
TELEPHONE (781)380-0770  
FACSIMILE (781)848-0330

FACSIMILE COVER SHEET

DATE: November 23, 2004

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: Lisa Boudreau

FIRM: INTERNAL REVENUE SERVICES

FAX TELEPHONE NUMBER: (617) 788-0675

FROM: TIMOTHY J. BURKE, ESQUIRE

We are transmitting \_\_\_\_ pages (including this cover sheet).

If you do not receive all of the pages, please call back  
Yana Reagan or Timothy Burke as soon as possible.

Firm Telephone Number: (781) 380-0770  
Fax Telephone Number: (781) 848-0330

COMMENTS: Please deliver immediately. Thank you.

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CONFIDENTIALITY NOTICE

The documents accompanying this telecopy transmission contain confidential or privileged information from the law firm of Burke & Associates. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this telecopied information is prohibited. If you have received this fax in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to your office.

Thank you for your assistance.

**EXHIBIT 2**

**Internal Revenue Service**

Appeals Office  
10 Causeway Street  
Room 493  
Boston, MA 02222

Date: November 30, 2004

SUZANNE CARLSON  
10 PHILLIPS FARM ROAD  
MARSHFIELD MA 02050

**Department of the Treasury**

**Person to Contact:**  
Lisa S. Boudreau  
Employee ID Number: 04-05025  
Tel: (617) 788-0634  
Fax: (617) 788-0675

**Refer Reply to:**  
AP:FE:BOS:LSB

**In Re:**  
CDP Lien and Levy

**Tax Period(s) Ended:**  
09/2001 12/2001 03/2002 06/2002  
09/2002 12/2002 03/2003

**FILE COPY**

Dear Ms. Carlson:

I received a letter from your representative, Timothy Burke, requesting an additional 30 days for the income tax returns and other information discussed at our conference and detailed in my letter of October 14, 2004. At the conference a period of six weeks was given for the requested information to be provided. This was a reasonable time frame and no additional extension is being granted. As stated in my previous correspondence, my determination will be made with the information available on November 30, 2004.

If you have any questions please contact me at the address and telephone number above.

Sincerely,

Lisa S. Boudreau  
Settlement Officer

cc: Timothy J Burke

**Internal Revenue Service  
Appeals Office  
10 Causeway Street  
Room 493  
Boston, MA 02222**

Date: November 30, 2004

TIMOTHY J BURKE  
400 WASHINGTON STREET, SUITE 303  
BRAINTREE MA 02184

**Department of the Treasury**

**Person to Contact:**  
Lisa S. Boudreau  
Employee ID Number: 04-05025  
Tel: (617) 788-0634  
Fax: (617) 788-0675

**Refer Reply to:**  
AP:FE:BCS:LSB

**In Re:**  
SUZANNE CARLSON

**SSN/EIN Number:**  
011-56-7044

**Tax Period(s) Ended:**  
09/2001 12/2001 03/2002 06/2002  
09/2002 12/2002 03/2003

Dear Sir:

We are sending you the enclosed material under the provisions of your power of attorney or other authorization on file with us.

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,



Lisa S. Boudreau  
Settlement Officer

**EXHIBIT 3**

cc: client  
OK AMIC  
FILE COPY  
111

Internal Revenue Service  
Appeals Office  
10 Causeway Street  
Room 493  
Boston, MA 02222

Date:

JAN 05 2005

SUZANNE CARLSON  
10 PHILLIPS FARM ROAD  
MARSHFIELD MA 02050

Department of the Treasury

Person to Contact:

Lisa S. Boudreau  
Employee ID Number: 04-05025  
Tel: (617) 788-0634  
Fax: (617) 788-0675

Refer Reply to:

AP:FE:BOS:LSB

SSN/EIN Number:

011-56-7044

Tax Type/Form Number:

Civil Penalty

In Re:

Collection Due Process Hearing  
(District Court)

Tax Period(s) Ended:

09/2001 12/2001 03/2002 06/2002  
09/2002 12/2002 03/2003

**Certified Mail**

**NOTICE OF DETERMINATION  
CONCERNING COLLECTION ACTION(S) UNDER SECTION 6320 and/or 6330**

Dear Ms. Carlson:

We have reviewed the taken or proposed collection action for the period(s) shown above. This letter is your Notice of Determination, as required by law. A summary of our determination is stated below. The attached statement shows, in detail, the matters we considered at your Appeals hearing and our conclusions.

If you want to dispute this determination in court, you have 30 days from the date of this letter to file a complaint in the appropriate United States District Court for a redetermination.

The time limit for filing your complaint (30 days) is fixed by law. The courts cannot consider your appeal if you file late. If the court determines that you made your complaint to the wrong court, you will have 30 days after such determination to file with the correct court.

If you do not file a complaint with the court within 30 days from the date of this letter, your case will be returned to the originating IRS office for action consistent with the determination summarized below and described on the attached page(s).

If you have any questions, please contact the person whose name and telephone number are shown above.

**Summary of Determination**

The Notice of Federal Tax Lien will remain in full force and effect until satisfied or unenforceable. Issuance of the Final Notice and the proposed levy action are fully sustained.

Sincerely,



Linda Rolf  
Appeals Team Manager

cc: Timothy J Burke

**Attachment to Letter 3194 (DC)**  
**Taxpayer: Suzanne Carlson**

• Request timely submitted under IRC § 6320 and §6330

	Type of Tax(es)	Tax Period(s)	Date of CDP Notice	Date CDP Request Received or Postmark	Code Section
1	Civil Penalty IRC §6672	9/30/2001	6/25/2004	7/23/2004	6320
1	Civil Penalty IRC §6672	12/31/2001	6/25/2004	7/23/2004	6320
1	Civil Penalty IRC §6672	3/31/2002	6/25/2004	7/23/2004	6320
1	Civil Penalty IRC §6672	6/30/2002	6/25/2004	7/23/2004	6320
1	Civil Penalty IRC §6672	9/30/2002	6/25/2004	7/23/2004	6320
1	Civil Penalty IRC §6672	12/31/2002	6/25/2004	7/23/2004	6320
1	Civil Penalty IRC §6672	3/31/2003	6/25/2004	7/23/2004	6320
2	Civil Penalty IRC §6672	9/30/2001	6/23/2004	7/23/2004	6330
2	Civil Penalty IRC §6672	12/31/2001	6/23/2004	7/23/2004	6330
2	Civil Penalty IRC §6672	3/31/2002	6/23/2004	7/23/2004	6330
2	Civil Penalty IRC §6672	6/30/2002	6/23/2004	7/23/2004	6330
2	Civil Penalty IRC §6672	9/30/2002	6/23/2004	7/23/2004	6330
2	Civil Penalty IRC §6672	12/31/2002	6/23/2004	7/23/2004	6330
2	Civil Penalty IRC §6672	3/31/2003	6/23/2004	7/23/2004	6330

As the taxpayer's request for a Collection Due Process (CDP) Hearing in items #1 under IRC §6320 was not more than 5 business days from the filing of the Notice of Federal Tax Lien plus 30 calendar days, the taxpayer was granted an Collection Due Process Hearing.

As the taxpayer's request for a Collection Due Process (CDP) Hearing in items #2 under IRC §6330 is not more than 30 days from the date of the Final Notice the taxpayer was granted a Collection Due Process Hearing.

**Summary and Recommendation:**

The taxpayer submitted a "Request for a Collection Due Process Hearing" in response to both a Notice of Federal Tax Lien filed on June 24, 2004 by Revenue Officer Daniel Yee and a Final Notice, Notice of Intent to Levy and Your Right to a Hearing issued on June 23, 2004, also by Revenue Officer Daniel Yee. The Notice of Federal Tax Lien reflects civil penalty liabilities assessed under Internal Revenue Code §6672 for the quarters ending September 30, 2001, December 31, 2001, March 31, 2002, June 30, 2002, September 30, 2002, December 31, 2002 and March 31, 2003 in the amount of \$135,261.13. The Final Notice, Notice of Intent to Levy and Your Right to a Hearing also reflects unpaid civil penalty liabilities for the same periods and is in the amount of \$137,203.96.

The taxpayer indicated that she would like to submit an offer in compromise as a collection alternative. The taxpayer has not filed all required income tax returns, so she does not qualify to submit an offer in compromise for consideration. No viable collection alternative was proposed. The Notice of Federal Tax Lien will remain in full force and effect until satisfied or unenforceable. Issuance of the Final Notice and the proposed levy action are fully sustained.

**Brief Background:**

Ms. Carlson operates an alarm business. She originally operated Universal Security Alarms as a sole proprietorship which was established in March of 2000 and first filed forms 941 for the quarter ending June 30, 2000. The business did not pay the bulk of the withheld taxes for the third and fourth quarters of 2001 and then closed out its filing requirements. The sole proprietorship currently owes employment taxes in excess of \$100,000.00.

Ms. Carlson also established a corporation, universal Security Alarms Inc. during the third quarter of 2000. The business is required to file forms 941, 940 and 1120S. The business first filed form 941 for the quarter ending September 30, 2001. It never made appropriate Federal Tax Deposits and accrued significant trust fund taxes. The Trust Fund Recovery Penalty assessments under Internal Revenue Code §6672 which are at issue in this hearing are based on trust fund taxes withheld and not turned over by this corporation.

Ms. Carlson filed for chapter 13 bankruptcy protection on June 12, 2002. The case was dismissed and terminated 11/26/2002. Ms. Carlson filed for chapter 7 bankruptcy protection on October 23, 2003. A discharge was granted on March 12, 2004. The taxes at issue are not dischargeable.

Ms. Carlson has not filed income tax returns since the calendar year ending December 31, 1999. Available income information indicates that she is required to file for at least some of those years.

The taxpayer's representative stated on the attachment to F12153 that the taxpayer is requesting an offer in compromise as a collection alternative.

## Discussion and Analysis

### MATTERS CONSIDERED AT THE APPEALS HEARING

#### I. Verification of Applicable Law and Administrative Procedures.

A review of the administrative file indicates that statutory and administrative requirements that needed to be met with respect to the filing of the Notice of Federal Tax Lien and the proposed levy were in fact met in this case.

Internal Revenue Code (IRC) Section 6321 provides for a statutory lien when a taxpayer neglects or refuses to pay a tax liability after notice and demand. Notice and demand was verified on transcripts. Obligations of the above cited tax periods remain unpaid.

IRC Section 6320 provides that the Internal Revenue Service (IRS) will notify a taxpayer of the filing of a notice of lien and of the right to a hearing before the IRS Office of Appeals with respect to the filing of a Notice of Federal Tax Lien. Letter 3172 dated June 25, 2004, "Notice of Federal Tax Lien Filing and Your Right to a Hearing Under IRC 6320" was sent via certified mail, and the Service received a timely response on June 23, 2004, in the form of the subject appeal.

This hearing was provided under both IRC Section 6320 with respect to a Notice of Federal Tax Lien and IRC Section 6330 with respect to a proposed levy. A levy is a legal seizure of a taxpayer's property to satisfy a tax debt. If a taxpayer does not pay his/her taxes, or make arrangements to settle a tax debt, the IRS may seize and sell any type of real or personal property the taxpayers owns or has an interest in. IRS may also levy a taxpayer's wages.

IRC § 6331 empowers the Service to use levy action to collect taxes on all property or rights to property belonging to the taxpayer or on which there is a federal tax lien.

IRC § 6331(d) requires that IRS notify a taxpayer at least 30 days before the day of levy. The record shows that such a notice was mailed via certified mail, return receipt requested; on June 23, 2004.

IRC § 6330(a)(1) specifically provides that no levy may be made unless the IRS notifies a taxpayer of:

- The Service's intention to levy, and;
- The taxpayer's opportunity for a hearing with the IRS Office of Appeals.

- This notice (which is combined with the notice required under IRC § 6331(d) or Letter 1058/LT 11) was mailed on June 23, 2004 via certified mail, return receipt requested.

Under Service procedures, a final notice of proposed levy is supposed to be sent only when the Service has identified potential levy sources. According to the record, levy sources were identified.

IRC Section 6320(b) and Section 6330(b) guarantee the right to a fair hearing by the Internal Revenue Office of Appeals. The hearing is to be conducted by an impartial officer who has had no previous dealing with respect to the unpaid tax. The Settlement Officer assigned to hear this case has had no prior involvement with respect to any of the tax liabilities which are part of this hearing.

An unsigned form 12153 was originally received for forms 1040 on July 9, 2004. No appealable action has taken place on forms 1040 so this was not a valid request for a Collection Due Process hearing regarding the taxpayer's forms 1040. A power of attorney form and Collection Due Process hearing request for the periods at issue was received on July 23, 2004. This is a timely hearing request. The collection statute and collection actions have been suspended.

## **II. Relevant Issues Presented by the Taxpayer:**

A face to face conference was held with the taxpayer and her representative, Timothy Burke on October 14, 2004. Settlement Officer Paul Reska was also present at the conference. The conference was recorded at the request of Mr. Burke.

- **Challenges to the Existence or Amount of the Liability.** The liability is due to assessment of the trust fund recovery penalty based on withheld taxes not turned over by Ms. Carlson's company. Ms. Carlson already had the opportunity to come before appeals prior to assessment of the liability. Liability issues are precluded from consideration and none were raised.
- **Challenges to the Appropriateness of the Proposed Collection Action.** The taxpayer felt that an offer in compromise was a more appropriate action due to her circumstances.
- **Collection Alternatives Offered by the Taxpayer.** An offer in compromise was proposed as a collection alternative. The taxpayer had not filed forms 1040 for 2000, 2001, 2002 or 2003 so she did not qualify to submit an offer in compromise. She was given six weeks, until November 30, 2004, to prepare and file the returns, as well as to provide completed collection information statements; a breakdown of Ms. Carlson's income from January 1, 2004 through October 31, 2004, as well as payment of any required estimated tax payments.

Ms. Carlson did not complete any of the required actions. On November 29, 2004 a letter was received from Mr. Burke requesting an additional extension of time to have the income tax returns completed. No additional time was granted, and a letter

was sent to Ms. Carlson, with a copy to Mr. Burke, confirming that the determination would be made with the information available on November 30, 2004. Ms. Carlson does not qualify to submit an offer in compromise.

Other collection alternatives such as placing the account into currently not collectible status or an installment agreement were considered but were also not viable due to the taxpayer's lack of filing compliance. No viable collection alternative was proposed.

- **Other Issues Raised by the Taxpayer.** No other issues were raised.

### **III. Balancing of the Need for the Efficient Collection of the Taxes With the Concerns That the Collection Action Be No More Intrusive Than Necessary.**

Ms. Carlson proposed an offer in compromise as a less intrusive means to satisfy her liability. She did not qualify to submit an offer due her lack of compliance with required filings and possible estimated tax payments. Ms. Carlson was given an opportunity to become compliant with filing and payment requirements. Her representative agreed at the conference that the six week time frame given to comply was reasonable. The taxpayer did not file outstanding returns, provide current income information, or provide any other information. No viable collection alternative was proposed. Filing of the Notice of Federal Tax Lien and issuance of the Final Notice and the proposed levy action are necessary to provide for the efficient collection of the taxes despite the potential intrusiveness of enforced collection.

**Internal Revenue Service**  
Appeals Office  
10 Causeway Street  
Room 493  
Boston, MA 02222

Date: JAN 05 2005

TIMOTHY J BURKE  
400 WASHINGTON STREET, SUITE 303  
BRAINTREE MA 02184

**Department of the Treasury**

**Person to Contact:**  
Lisa S. Boudreau  
Employee ID Number: 04-05025  
Tel: (617) 788-0634  
Fax: (617) 788-0675

**Refer Reply to:**  
AP:FE:BOS:LSB

**In Re:**  
SUZANNE CARLSON  
**SSN/EIN Number:**  
011-56-7044

**Tax Period(s) Ended:**  
09/2001 12/2001 03/2002 06/2002  
09/2002 12/2002 03/2003

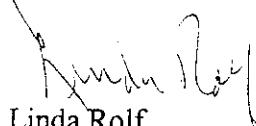
Dear Sir:

We are sending you the enclosed material under the provisions of your power of attorney or other authorization on file with us.

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,



Linda Rolf

Appeals Team Manager

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Suzanne Larson

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF PLYMOUTH  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Timothy Burke  
100 Washington St., Suite 303  
BOSTON, MA 02116**DEFENDANTS**

UNITED STATES

FILED  
CLERKS OFFICE

2005 FEB -4 A 9:33

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

**IV. ORIGIN**

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	Transferred from <input type="checkbox"/> another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	Appeal to District Judge from <input type="checkbox"/> Magistrate Judgment
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**V. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury – Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury – Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage		<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability		<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 165 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 881 Agricultural Acts
<input type="checkbox"/> 166 Contract Product Liability				<input type="checkbox"/> 882 Economic Stabilization Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		<input type="checkbox"/> 883 Environmental Matters
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS:		<input type="checkbox"/> 884 Energy Allocation Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General		<input type="checkbox"/> 885 Freedom of Information Act
<input type="checkbox"/> 220 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 890 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 446 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 980 Other Statutory Actions
<input type="checkbox"/> 260 All Other Real Property		<input type="checkbox"/> 555 Prison Condition		

**VI. CAUSE OF ACTION**(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

26 USC § 6320(c) and 26 USC § 6330(d)(1)

Appeal of a determination by IRS

**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION  
 UNDER F.R.C.P. 23**DEMAND \$**CHECK YES only if demanded in complaint:  
 YES  NO**VIII. RELATED CASE(S)** (See Instructions):  
IF ANY

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD

2/3/05

FOR OFFICE USE ONLY

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) SUZANNE CARLSON v.UNITED STATES

FILED

CLERK'S OFFICE

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED CATEGORIES OR SUBJECT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

1. 160, 410, 470, R.23, REGARDLESS OF NATURE OF CASE. *2005 FEB -4 A 9:33*  
 2. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730. *\*Also complete AO 120 or AO 121  
 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950.  
 U.S. DISTRICT COURT  
 DISTRICT OF MASS.*  
 3. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 300,  
 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,  
 380, 385, 450, 891.

4. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660,  
 690, 810, 861-865, 870, 871, 875, 900.

5. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

*No*

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME TIMOTHY B. BROWNADDRESS 400 Washington St., Ste 303, Braintree, MA 02184TELEPHONE NO. 781-380-0770